

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT SHAH,)	
)	Civil Action No. 04-259E
Plaintiff,)	
)	Magistrate Judge Baxter
v.)	
)	
WALTER RHINEHART, Psy. D.,)	
HERBERT BEAM, M.D.,)	
JAMES L. FLETCHER, M.D.,)	
DENNIS OLSON, M.D.,)	
VIOLETTE GEZA,)	
STEVEN LABOZZI,)	
BONNIE SAYLOR,)	
JUDITH GLENN, and)	
CHARLES MONTGOMERY)	
)	
Defendants.)	

MOTION FOR ADDITIONAL TIME TO WAIVE
PERSONAL SERVICE OF PROCESS

AND NOW, come Defendants, Rhinehart, Beam, Fletcher, Olson, Geza, Saylor, Glenn and Montgomery, by and through their attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Lee J. Karl, Assistant United States Attorney for the same District,¹ and respectfully move the Court to issue an Order extending the time within which the Defendants may waive personal service of process and in support thereof aver as follows:

1. The Declaration of Joyce Horikawa, Senior Attorney Advisor for the Bureau of Prisons, attached hereto as Exhibit A, is incorporated by reference as if set forth fully

¹The United States Attorney's Office currently represents these Defendants for the sole purpose of seeking this extension of time. Given the early stage of this litigation, representation approval and agreements have not yet been secured.

herein. The Declaration explains how eight of the nine Defendants wish to waive service of process but, due to various reasons, were unable to timely sign and return the waivers.

2. With regard to the remaining Defendant, Steven LaBozzi, as explained in the attached Declaration, Joyce Horikawa continues to attempt to contact Mr. LaBozzi to learn of his intentions regarding waiver of service of process. Mr. LaBozzi, however, has been difficult to locate, as he is no longer employed by the Bureau of Prisons, and his last known address is in South Carolina.

3. In the interest of judicial economy, and in an effort keep this litigation progressing efficiently, Defendants Rhinehart, Beam, Fletcher, Olson, Geza, Saylor, Glenn and Montgomery request an additional thirty (30) days to waive personal service of process. Additionally, the Government requests an additional sixty (60) days to locate Defendant LaBozzi and learn of his intentions regarding waiver of service of process.²

²The Government notes that the United States Attorney's Office for the Western District of Pennsylvania has not been served pursuant to Federal Rule of Civil Procedure 4(i)(2) and 4(i)(1). Additionally, according to the most recent docket report, the Attorney General of the United States has not been served pursuant to Federal Rule of Civil Procedure 4(i)(2) and 4(i)(1). Pursuant to Federal Rule of Civil Procedure 12(a)(3)(B), Defendants will respond to the Complaint sixty (60) days after service is made on the United States Attorney for the Western District of Pennsylvania.

WHEREFORE, Defendants respectfully request that the Court issue an Order extending the time within which they may waive service of process.

Dated: July 8, 2005

Respectfully Submitted,

MARY BETH BUCHANAN
UNITED STATES ATTORNEY

s/ Lee J. Karl
LEE J. KARL
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OF COUNSEL:
Joyce Horikawa, Esquire
Federal Bureau of Prisons
U.S. Custom House
2nd & Chestnut Street, 7th Floor
Philadelphia, PA 19106

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Defendants' Motion for Additional Time to Waive Service of Process was served via First Class U.S. Mail on this 8th day of July, 2005, upon the following:

Robert Shah
Dickerson Detention Center
3501 Hamtramck Dr.
Hamtramck, MI 48211

s/ Lee J. Karl
Lee J. Karl
Assistant U.S. Attorney